

**57C01-2106-PL-000018**

Noble Circuit Court

Filed: 6/8/2021 4:51 PM

Clerk

Noble County, Indiana

STATE OF INDIANA ) IN THE NOBLE \_\_\_\_\_ COURT  
COUNTY OF NOBLE ) SS:  
 ) CAUSE NO.

INDIANA FARM BUREAU INSURANCE )  
As Subrogee of Wysong Farms, Inc., )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
HOMAN, INC., )  
 )  
Defendant. )  
 )

**COMPLAINT**

COMES NOW the Plaintiff, Indiana Farm Bureau Insurance, as Subrogee of Wysong Farms, Inc., by counsel, and complains of Defendant, as follows:

1. Plaintiff, Indiana Farm Bureau Insurance, is a business which at all times relevant hereto was duly authorized to issue insurance policies in the State of Indiana, domiciled in the State of Indiana, and which maintained a principal place of business at 225 S. East Street, Indianapolis, Indiana.
2. Wysong Farms, Inc. is a corporation, which at all times relevant owned the property located at 1601 West CR 900 North, Wawaka, Noble County, Indiana.
3. Homan, Inc. is a Ohio corporation with principal places of business located in Maria Stein, Ohio, and Milroy, Indiana.
4. In 2017, Wysong Farms, Inc. contracted with Defendant Homan, Inc. for the construction of a 9,000 head, 925' X 87' -1/2", swine building. (A copy of the contract is attached hereto and marked as Exhibit "A").



5. Thereafter, Defendant constructed the swine building located at 1601 West CR 900 North, Wawaka, Noble County, Indiana (“the swine building”).

6. On June 26, 2020, the roof system and walls of the swine building collapsed, causing property damages.

7. Inspection of the swine building following the June 26, 2020 collapse revealed undersized clips connecting the roof trusses to the top plate in the northern half of the east and west walls.

8. The undersized clips along the northern half of the east and west walls of the swine building provided entirely inadequate resistance to wind uplift.

9. Inspection of the swine building following the June 26, 2020 collapse revealed no bracing/connections between the roof trusses and the top plate in the southern half of the east and west walls.

10. The lack of bracing/connections along the southern half of the east and west walls of the swine building was improper, violated construction standards, and did not provide resistance to wind uplift.

11. As a result of the lack of proper bracing/connections by Defendant Homan, Inc., wind moved through the open west wall and lifted the roof directly out of the wall system, causing the swine building at issue to collapse.

12. The wind speed at the subject building on June 26, 2020 was not extreme, and was not above an expected and reasonably foreseeable speed and force for the location.

13. Wind at the subject building on June 26, 2020 was well within the limits of what a properly constructed building should have been able to endure.

14. Defendant Homan, Inc. breached its contract with Wysong Farms, Inc. when it failed to properly construct the swine building.

15. Defendant Homan, Inc. breached express and implied warranties of quality and merchantability of the services it performed on the swine building.

16. Defendant Homan, Inc. failed to perform services on the swine building in a workmanlike manner.

17. Defendant Homan, Inc. was negligent in its actions, which resulted in the collapse of the swine building and the damages sustained.

18. At all times relevant, Indiana Farm Bureau Insurance had in full force and effect an insurance policy which provided coverage for the loss involved for Wysong Farms, Inc.

19. Pursuant to the terms of the aforementioned insurance policy, Indiana Farm Bureau Insurance tendered benefits in the amount of \$2,096,775.16 for damages resulting from the incident noted above and is therefore subrogated to the rights of its insured in this action to the extent of its payments.

20. The actions/inactions of Defendant Homan, Inc. were the proximate cause of the incident noted above, and Defendant Homan, Inc. is responsible for the damages and must compensate Indiana Farm Bureau Insurance for the damages incurred.

WHEREFORE, the Plaintiff, Indiana Farm Bureau Insurance, as Subrogee of Wysong Farms, Inc., prays for judgment in its favor and against the Defendant Homan, Inc. in the sum of \$2,096,775.16, plus pre-judgment interest, costs of this action, and any other just and proper relief.

Respectfully submitted,

McNEELY LAW LLP

*/s/ Michelle A. Cobourn-Baurley* \_\_\_\_\_

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*# add more switch couplers for  
38  
2 more brooders / room*

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Noble County, Indiana

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MARIA STEIN, OHIO 45860  
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FAX: 419-925-5401  
[www.homaninc.com](http://www.homaninc.com)

Wysong  
2379 US RT 6  
Waweka IN

May 2, 2016 REV 3-27-17  
Mitch Wysong, 260-760-6981  
Chuck, Phil, Jay  
[mitchwysong@gmail.com](mailto:mitchwysong@gmail.com)

**1-9000 HD W.F. Barn, 925' X 87'-1/2" OD  
(15 Rooms of 600 head per room, Center Aisle)  
All Concrete to be 4000 PSI**

#### Cement Work

- 8' x 8" Pit wall, Rebar 5/8" x 16" x 16" OC
- 5" Floor with Mesh, 8" under walls and post
- 15 Pads for bins – Concrete pump and crane in price
- 10" thick Pit Room divider walls – 6" x 4' top walls
- 2' x 6" Concrete wall fan side (+/-) with wall mount fan guards
- Interior hallway wall – 4' x 6" (+/-) – Exterior hallway wall 4' x 6" (+/-)
- End wall opposite of office insulates with Styrofoam and covered with metal
- 2- Semi Loadouts – 2- 5' x 6' pumps per room – Pena lids
- As of 3-25-17 have not received IDEM spec for concrete

#### Hallway

- Glassboard interior on walls
- Necessary Drains – 12 metal removable drains – *check out 15*
- 6' ID Precast

#### Lumber (Solid Sides) - Curtain on Hallway Wall

- Treated 2 X 6 studs at curtain. (Balance Pine)
- Rafters 48" on center
- White metal roof (exterior) with screws (29 gauge G 180)
- White metal gable ends (exterior) white trim
- 1- 4' Aluminum door into room, 1 – 3' door on fan wall – Both ½ glass
- 8' White aluminum ceiling with screws – 4 mil. Vap.barrier
- 6" Batting in walls – Exterior Only.
- Blown insulation (ceiling) – R-30
- Manhole to get into the attic – 1 ladder
- Ceiling height 8'
- Crane for trusses
- Poly Core on fan end

**Exhibit "A"**

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- Exterior, White horizontal metal – 6” Batt
- Interior room divide – walls 4’x 6” concrete horizontal white aluminum above
- Fan wall core

#### Flooring

- Pre-cast slats & lintels – Berne Ready Mix
- Crane for slats & lintels

#### Gating – Hog Slat

- 36” Center aisle
- Horizontal – Painted W.F. – 33” overall height (+/-) *- check out*
- Stainless steel hardware
- 100 hd. per pen – 6 pens per room
- One sort pen in each pen
- Wall mount fan guards for 36” and 54” fans

#### Curtains – Solid sides

- Wire Mesh – rubber coated – 2” Seat Belting
- Stainless steel cable & hardware
- Approximately 900’ of Curtain – Hallway side only

#### Flag Feeding System – A.P. per Room */ waters*

- 2 – 9’- 3 Ring bulk bins set up – 14.4 Tons each
- 2 – Ladders for bins
- 2 – 3” Boot assemblies
- 3” Flex auger & PVC
- 3” System over each row of feeders- U System
- Hangers & screw hooks
- Downspout tubes
- Feeders Hog Slat WF/W.D. 1-5’ and 1-4’ per pen
- Clear plastic boot
- 5 49 cup waters, Stainless Steel *(L per pen)*
- Plastic Feeder Mats, Stainless Steel Fasteners, 90 - 5’ x 4’ and 90 – 4’ x 4’

#### A.P. Ventilation - Per Room

- 2 – 24” Pit Fans
- 2 – 36” Wall Fans
- 2 – 54” Fans
- 1 - Expert Control
- Ceiling Inlets – ACI -4000-P - 2 rows of 4
- 1 – Heater per room – Hired Hand – 225,000 BTU LP
- 1 – Inlet Machine
- 1 - Agri Alert 128 for entire barn – Will sense temp and control for each room
- 28 wall inlets

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req'est.*Hallway Ventilation

- 6 - Outside mount Heaters – LP Hired Hand – wants hot surface direct spark
- Curtain on automatic control with opener

Load out – 1 Room

- 2 – Covered load out – See Drawing 16' Long x 7' Width O.D. semi only
- Trucker doors – 3' Solid
- 6" x 4' Concrete wall and floor in staging area – see print
- Overhead Door on end – flip up
- 1 – 60,000 BTU Heater L.P. per Loadout
- 5' opening from Hallway into load OUT - Owner to make wooden door

High Pressure Line

- 1 - High pressure wash line down center of each room – 3 drops per room
- Drops in hallway - owner wants line inside rooms / verify with owner

Soakers / Misters / Waterers

- Soakers
- Misters
- All PVC plumbing & fittings
- 2 – Medicators
- 1 – Water Meter & 1 pressure regulator
- 540 Hog Slat S.S. cups W.F. 4' pipe, 6 per pen
- Water hose outlets – one in each room by aisle doors
- 1 – Fresh water line
- 2 – Medication lines

*(installer to verify with owner)**> owner wants all water lines inside rooms.*Gas Lines

- Gas line for main heaters and infrareds – Install in all rooms
- All Inside plumbing for Gas Lines – plumbed to outside of barn 1" – owner to do outside work

Infrareds and Mats

- 24 – Infrareds, I-17 LBW
- 1 – Control per room
- Gas line and 6 Quick Couplers in all rooms - 8 quick couplers
- Brooder mats – Not quoted

Generator

- 1 – 200 KW John Deere – Diesel
- 2- Main Circuit Breakers
- 2 – 600A 240V I-P 3R fused disconnects and fuses
- 1- 275 Gallon Fuel Tank
- Shutters
- Generator Install inside Generator Room

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- Generator room 13-1/2' x 30' Long (+/-)
- 2 – 600A 240V I-P zenith transfer switches
- 2 – 200A breaker panels

**Generator Building**  
**(None Quoted)**

**Office – Poured on Slab**

- 14' x 87-1/2' OD – 8' Ceiling white aluminum throughout
- 5 Rooms
- 1 – Shower Room 5' x 14' built in shower /polycore line
- 1 – Storage room 14' x 9' with floor drain / 4' floor and 1 – 2' x 3' window
- 1 – 14' x 39-1/2' Skid Loader Room with 10' wide OHD – No opener, 1- 3' walk in door, 1 Heater – Hired Hand LP
- 1 – Office 14' x 12' – Heated
- 1 – Generator Room 13-1/2' x 30', 1 - double door – 1 - 36' door
- Glassboard throughout
- 6" Bat Outer walls and between shower and generator room
- 5" Concrete floor with mesh throughout
- 6" Framing curbs at walls
- All Necessary floor drains installed
- All rooms except the shower has 1 – 2 x 3 slider window per room
- Exterior metal 29G-G180 horizontal

**Compost**

- 30' x 60'
- 6' x 8" Upper Walls
- 6" Floor/Mesh
- No Roof
- Not Interior Walls
- 10' x 10' Apron – At Opening
- No Door

**Electrical**

**15 Rooms, 600 head per room, each room 60'x 80', Storage room, skid loader storage, office, shower.**

**Per room (15)**

- 2- 24" Pit Fans
- 2- 36" Tunnel Fans
- 2- 54" Tunnel Fans
- Expert VP18, located in hallway 3- Room sensors
- Cooling T stats
- Heating T Stats
- 1 Ceiling Inlet Machine
- Room heater

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- 3- Rows of EH80 LED
- 1 Feed flag motor
- 1 - Smart 1R sensor

**Building – Hallway/ Utility Area**

- 8 - Heaters
- 2- Hallway curtain machines
- TC5 Controller
- Hall sensors
- 120V outlet located in each room
- Lights and 120V outlet in load out chute 1- Night lite on gable end of building
- 1 – row of EH80 LED, 16' O.C.
- 6- 200A breaker panels located in hallway outside of rooms

**Note:** The above quote does not include any costs for excavation, materials, or labor necessary to provide power to any of the 200A panels. No sales tax or electrical permits included.

**Total Contract Price of Building with Generator and Compost:**

ADJ. 2017 price \$2,673,389 - 6 cups per sec.

**2016 Pricing - If project goes into 2017 – Prices may change**

**Quote Good Until** \_\_\_\_\_

**Cannot Lock in Prices without down payment, signed contract, Bank approval letter.**

**Homan to supply Dumpster and Porta Jon**

**Payment Program**

\$7,500.00 Upon signing – pd. 6-15-16  
25% When Pit floor poured  
15% When Pit walls are up  
16% When Slats start being delivered  
18% When Lumber starts to be delivered  
10 % When Equipment is Ordered  
15% When Equipment starts to be delivered

Balance due upon completion

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**All of Homan, Inc.'s standard conditions of sale apply.**

**Responsibility of the Owner (Not in Quote)**

- Electrical, Water lines, Gas lines and Phone Alarm lines outside – phone lines
- Any and all permits that may be needed, also any taxes that may be due
- Excavation, Backfill, trenching, dozer work, pulling of trucks, footer tile (All Dirt Work)
- Stone and Placement
- Concrete additives and Blankets and Labor
- Sink, toilet, hot water heater, work bench, washer, dryer, shower curtain and plumbing
- 2" High volume line
- Owner responsible for vandalism, theft of material, tools, equipment left on job site during construction
- Electric to be 50' from building site
- Pig Mats
- Scales
- Flow Hammers
- Changes in concrete per IDEM/Permit
- 10' x 10' Pit Added ADD \$
- Note: all electrical work outside of building is not in Homan's quote – contact your supplier for this cost

**Acceptance of Quote**

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**Customer Acceptance**

---

**Date**

---

**Homan, Inc.**

---

**Date**